MONTANA LEGISLATIVE HISTORY

Chapter 256 19 87

Bill H 783 S _____ Original bill & history X C

H. Committee on LOCAL GOV'T			S. Committee on LOCAL GOV'T		
Hearing Date(s) & EXEC. ACTION	2/18	X C	Hearing Date(s) & EXEC. ACTION	3/10	X C
		C			C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

RETURNED TO HOUSE
4/02 SIGNED BY SPEAKER
4/02 SIGNED BY PRESIDENT

4/03 TRANSMITTED TO GOVERNOR
4/07 SIGNED BY GOVERNOR
CHAPTER NUMBER 408 EFFECTIVE DATE: 7/01/87

HB 778 INTRODUCED BY JENKINS, ET AL.
IRRIGATION SCHEDULING PROGRAM

2/16 INTRODUCED
2/16 REFERRED TO AGRICULTURE, LIVESTOCK & IRRIGATION
2/16 FISCAL NOTE REQUESTED
2/19 FISCAL NOTE RECEIVED
2/20 HEARING
2/21 COMMITTEE REPORT--BILL PASSED AS AMENDED
2/24 2ND READING PASSED 69 28
2/24 3RD READING PASSED 82 16
2/24 REREFERRED TO APPROPRIATIONS
3/04 HEARING
3/04 TABLED IN COMMITTEE

HB 779 INTRODUCED BY SCHYE, ET AL.
CLARIFIES EVIDENCE OF TITLE FOR PURPOSES OF THE IRRIGATION DISTRICT LAWS

2/16 INTRODUCED
2/16 REFERRED TO AGRICULTURE, LIVESTOCK & IRRIGATION
2/20 HEARING
2/21 COMMITTEE REPORT--BILL PASSED
2/23 2ND READING PASSED 94 0
2/24 3RD READING PASSED 99 0

TRANSMITTED TO SENATE
3/02 REFERRED TO AGRICULTURE, LIVESTOCK & IRRIGATION
3/13 HEARING
3/16 COMMITTEE REPORT--BILL CONCURRED AS AMENDED
3/19 2ND READING CONCURRED 50 0
3/21 3RD READING CONCURRED 41 0

RETURNED TO HOUSE WITH AMENDMENTS
3/25 2ND READING AMENDMENTS CONCURRED 97 2
3/26 3RD READING AMENDMENTS CONCURRED 98 0
4/01 SIGNED BY SPEAKER
4/02 SIGNED BY PRESIDENT

4/02 TRANSMITTED TO GOVERNOR
4/07 SIGNED BY GOVERNOR
CHAPTER NUMBER 382 EFFECTIVE DATE: 7/01/87

HB 780 INTRODUCED BY SCHYE, ET AL.
ALLOW PERSONS TO ADMINISTER RABIES VACCINE TO THEIR OWN FARM ANIMALS

2/16 INTRODUCED
2/16 REFERRED TO HUMAN SERVICES & AGING
2/17 HEARING
2/18 COMMITTEE REPORT--BILL PASSED
2/23 2ND READING NOT PASSED 87 9

HB 781 INTRODUCED BY COHEN
CREATING FOREST WATERSHED MANAGEMENT ACT

2/16 INTRODUCED
2/16 REFERRED TO NATURAL RESOURCES
2/16 FISCAL NOTE REQUESTED
2/20 HEARING
2/23 FISCAL NOTE RECEIVED
3/06 HEARING
3/09 TABLED IN COMMITTEE

HB 782 INTRODUCED BY SANDS
LOCAL OPTION SALES OR INCOME TAX

2/16 INTRODUCED
2/16 REFERRED TO TAXATION
3/09 HEARING
3/19 COMMITTEE REPORT--BILL PASSED AS AMENDED
3/23 2ND READING PASSED AS AMENDED 52 47
3/24 3RD READING PASSED 57 43

TRANSMITTED TO SENATE
3/25 REFERRED TO TAXATION
4/02 HEARING
4/11 COMMITTEE REPORT--BILL CONCURRED AS AMENDED
4/14 2ND READING CONCUR AS AMENDED MOTION FAILED 20 29
4/14 2ND READING INDEFINITELY POSTPONED 29 20
4/14 SEGREGATED FROM COMMITTEE OF WHOLE REPORT 32 18
4/15 2ND READING CONCUR MOTION FAILED 24 25
4/15 2ND READING INDEFINITELY POSTPONED 28 21
(BILL RETURNED TO HOUSE NOT CONCURRED AS AMENDED)
4/23 MOTION TO SUSPEND RULES TO RECONSIDER ACTION ON 2ND READING AND REQUEST RETURN OF BILL FROM HOUSE; FAILED 25 25
4/23 RECONSIDERED FAILING TO RECONSIDER PREVIOUS ACTION
4/23 MOTION TO SUSPEND RULES TO RECALL BILL FROM HOUSE AND PLACE ON 2ND READING; FAILED TO RECEIVE TWO-THIRDS VOTE 27 23
(BILL FAILED)

HB 783 INTRODUCED BY BRANDEWIE, ET AL.
LIMITS REVIEW FOR ACCESS TO DIVISIONS OF LAND

2/16 INTRODUCED
2/16 REFERRED TO LOCAL GOVERNMENT
2/18 HEARING
2/18 COMMITTEE REPORT--BILL PASSED
2/20 2ND READING PASSED 84 7
2/21 3RD READING PASSED 88 4

TRANSMITTED TO SENATE
2/23 REFERRED TO LOCAL GOVERNMENT
3/10 HEARING
3/12 COMMITTEE REPORT--BILL CONCURRED
3/17 2ND READING CONCURRED 50 0
3/19 3RD READING CONCURRED 49 0

RETURNED TO HOUSE
3/23 SIGNED BY SPEAKER

3/23 SIGNED BY PRESIDENT

3/24 TRANSMITTED TO GOVERNOR
3/27 SIGNED BY GOVERNOR
CHAPTER NUMBER 256 EFFECTIVE DATE: 3/27/87

HB 784 INTRODUCED BY SMITH, C., ET AL.
CREATING OFFICE OF INDUSTRIAL ATTORNEY TO REPRESENT WORKERS' COMPENSATION CLAIMANTS
BY REQUEST OF DEPARTMENT OF LABOR & INDUSTRY

2/16 INTRODUCED
2/16 REFERRED TO BUSINESS & LABOR
2/16 FISCAL NOTE REQUESTED
2/19 HEARING
2/19 COMMITTEE REPORT--BILL PASSED AS AMENDED
2/21 FISCAL NOTE RECEIVED
2/21 2ND READING NOT PASSED 50 43

HB 785 INTRODUCED BY GRADY, ET AL.
PERMIT PREPAYMENT OF REAL PROPERTY TAXES

2/16 INTRODUCED
2/16 REFERRED TO TAXATION
2/23 HEARING
2/23 TABLED IN COMMITTEE

HB 786 INTRODUCED BY SANDS, ET AL.
TRANSFERS AUTHORITY TO HIGHWAY PATROL FOR ENFORCEMENT OF MOTOR CARRIER LAWS

2/17 INTRODUCED
2/17 REFERRED TO HIGHWAYS & TRANSPORTATION
2/17 FISCAL NOTE REQUESTED
2/19 HEARING
2/19 TABLED IN COMMITTEE
2/23 FISCAL NOTE RECEIVED

HB 787 INTRODUCED BY ADDY, ET AL.
EXTEND UNIVERSITY OF MONTANA MASTER OF BUSINESS ADMINISTRATION PROGRAM TO EASTERN MONTANA COLLEGE

2/17 INTRODUCED
2/17 REFERRED TO APPROPRIATIONS
2/20 HEARING
3/30 TAKEN FROM COMMITTEE 53 43
4/01 2ND READING PASSED 65 31
4/01 3RD READING PASSED 63 30

TRANSMITTED TO SENATE
4/03 REFERRED TO FINANCE & CLAIMS
4/07 HEARING
4/07 COMMITTEE REPORT--BILL CONCURRED
4/10 2ND READING CONCURRED 47 3
4/11 3RD READING CONCURRED 45 5

RETURNED TO HOUSE
4/15 SIGNED BY SPEAKER
4/16 SIGNED BY PRESIDENT

4/16 TRANSMITTED TO GOVERNOR
4/20 SIGNED BY GOVERNOR

HB 788 INTRODUCED BY MENAHAN, ET AL.
REQUIRE TEMPORARY LICENSURE OF QUALIFIED PHYSICIANS EMPLOYED AT INSTITUTIONS

2/17 INTRODUCED
2/17 REFERRED TO HUMAN SERVICES & AGING
2/17 HEARING
2/18 COMMITTEE REPORT--BILL PASSED
2/20 2ND READING PASSED 90 0
2/21 3RD READING PASSED 92 0

TRANSMITTED TO SENATE
2/23 REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY
3/11 HEARING
3/11 TABLED IN COMMITTEE

HB 789 INTRODUCED BY HARPER
REVISES DEFINITION OF HAZARDOUS WASTE MANAGEMENT FACILITY

2/17 INTRODUCED
2/17 REFERRED TO BUSINESS & LABOR
2/17 FISCAL NOTE REQUESTED
2/19 HEARING
2/21 FISCAL NOTE RECEIVED
2/24 COMMITTEE REPORT--BILL PASSED AS AMENDED
STATEMENT OF INTENT ADOPTED
2/24 2ND READING PASSED 88 7
2/24 3RD READING PASSED 93 5

TRANSMITTED TO SENATE
3/02 REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY
3/18 HEARING
3/24 COMMITTEE REPORT--BILL CONCURRED AS AMENDED
3/28 2ND READING CONCURRED 49 1
3/30 3RD READING CONCURRED 50 0

RETURNED TO HOUSE WITH AMENDMENTS
4/08 2ND READING AMENDMENTS CONCURRED 89 1
4/09 3RD READING AMENDMENTS CONCURRED 94 3
4/14 SIGNED BY SPEAKER
4/14 SIGNED BY PRESIDENT

4/15 TRANSMITTED TO GOVERNOR
4/20 SIGNED BY GOVERNOR
CHAPTER NUMBER 562 EFFECTIVE DATE: 4/20/87

HB 790 INTRODUCED BY REHBERG, ET AL.
COSTS AND ATTORNEY FEES OF SMALL BUSINESS PAID BY STATE IN CERTAIN ACTIONS

2/17 INTRODUCED
2/17 REFERRED TO JUDICIARY
2/17 FISCAL NOTE REQUESTED
2/20 HEARING
2/21 COMMITTEE REPORT--BILL PASSED AS AMENDED
2/23 FISCAL NOTE RECEIVED
2/24 2ND READING PASSED 97 3
2/24 3RD READING PASSED 95 5

TRANSMITTED TO SENATE
3/02 REFERRED TO JUDICIARY
3/19 HEARING
3/27 TABLED IN COMMITTEE

HOUSE BILL NO. 783

INTRODUCED BY BRANDEWIE, SCHYE, CODY

IN THE HOUSE

FEBRUARY 16, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT.
FEBRUARY 18, 1987	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 19, 1987	PRINTING REPORT.
FEBRUARY 20, 1987	SECOND READING, DO PASS.
FEBRUARY 21, 1987	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 88; NOES, 4.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 23, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT.
MARCH 12, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 17, 1987	SECOND READING, CONCURRED IN.
MARCH 19, 1987	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 19, 1987	RECEIVED FROM SENATE.
	SENT TO ENROLLING.

INTRODUCED BY House BILL NO. 783

A BILL FOR AN ACT ENTITLED: "AN ACT TO SUBSTANTIALLY LIMIT REQUIREMENTS FOR REVIEW OF DIVISIONS OF LAND FOR ACCESS AND EASEMENTS; AMENDING SECTIONS 76-3-505 AND 76-3-609, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-3-505, MCA, is amended to read:

"76-3-505. Provision for summary review of subdivisions and other divisions of land. ~~(1)~~ Local subdivision regulations shall include procedures for the summary review and approval of subdivision plats containing five or fewer parcels where proper access to all lots is provided, where no land in the subdivision will be dedicated to public use for parks or playgrounds, and which have been approved by the department of health and environmental sciences where such approval is required by part 1 of chapter 4; provided that reasonable local regulations may contain additional requirements for summary approval.

~~(2)--local---subdivision---regulations---must---include procedures--for-review-of-those-divisions-of-land-consisting exclusively-of-parcels-20-acres-or-larger--subject--to--this chapter.---Rules--governing-review-of-these-divisions-of-land shall-be-limited--to--a--written--determination--of--whether appropriate-access-and-easements-are-properly-provided."~~

Section 2. Section 76-3-609, MCA, is amended to read:

"76-3-609. Review procedure for minor subdivisions and other divisions of land. ~~(1)~~ Subdivisions containing five or fewer parcels where proper access to all lots is provided and in which no land is to be dedicated to the public for parks or playgrounds are to be reviewed as follows:

~~(a)~~(1) The governing body must approve, conditionally approve, or disapprove the first such subdivision from a tract of record within 35 days of the submission of an application for approval thereof.

~~(b)~~(2) The governing body shall state in writing the conditions which must be met if the subdivision is conditionally approved or what local regulations would not be met by the subdivision if it disapproves the subdivision.

~~(c)~~(3) The requirements for holding a public hearing and preparing an environmental assessment shall not apply to the first such subdivision created from a tract of record.

~~(d)~~(4) Subsequent subdivisions from a tract of record shall be reviewed under 76-3-505 and regulations adopted pursuant to that section.

~~(2)--(a)-For-divisions-of-land--consisting--exclusively of--parcels--20--acres--and-larger,-the-governing-body-shall review-the-division-of-land-within-35-days-of-the-submission~~

INTRODUCED BILL
HB 783

~~of an application for review. The governing body's review must be limited to a written determination that appropriate access and easements are properly provided. The review shall provide either:~~

~~(i) that the access and easements are suitable for the purposes of providing appropriate services to the land; or~~

~~(ii) that the access and easements are not suitable for the purposes of providing appropriate services to the land, in which case the county, the school district or districts, and other authorities and districts in which the land is located will not provide services that involve use of the unsuitable access and easements. Such services include:~~

~~(A) fire protection;~~

~~(B) school busing;~~

~~(C) ambulance;~~

~~(D) snow removal; and~~

~~(E) similar services as determined by the governing body.~~

~~(b) The governing body shall deliver a copy of the determination of the review to the county clerk and recorder to be reflected on the certificate of survey or deed of conveyance of the land that was subject to review.~~

~~(c) The governing body may, upon application by a landowner, redetermine the suitability of access and easements. If the governing body determines that there has~~

~~been a material change regarding access or easements and the change provides for suitable access and easements for services, it may determine that such land is now suitable as provided in subsection (2)(a)(i) and shall deliver a copy of such determination to the county clerk and recorder to be reflected on the certificate of survey or deed of conveyance.~~

~~(d) Requirements for holding a public hearing, preparing an environmental assessment, and finding that the division of land is in the public interest do not apply.~~"

NEW SECTION. Section 3. Effective date. This act is effective on passage and approval.

-End-

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

February 18, 1987

The meeting of the Local Government Committee was called to order by Chairman Norm Wallin on February 18, 1987 at 12:30 p.m. in Room 312-F of the State Capitol.

ROLL CALL: Roll call was taken with all members present except for Rep. Pistoria who was excused. Lee Heiman, Committee Counsel for the Legislative Council was also present.

CONSIDERATION OF HOUSE BILL 783: Rep. Ray Brandewie, House District 49 and sponsor of the bill, stated HB 783 was for access and easements to land. He promised the counties if they had a problem applying the legislation passed last session fairly, he would come back and repeal the sections. Rep. Brandewie said the bill has caused great confusion among the 56 counties, county attorneys, the attorney general, the Department of Commerce and others. They did not know what some of the terms meant or how to apply them. Basically, HB 783 repeals all the language put in and now reverts back to laws enacted prior to 1985. He commented that the counties would rejoice if HB 783 were to pass.

PROPONENTS: Robert Helding, MT Association of Realtors, stated they were in support of the bill. He introduced Bill Spilker to speak on the bill.

William Spilker, Licensed Real Estate Broker of Helena, stated he supports the repeal of the legislation which he felt was very well intentioned two years ago. He said in the 90th day there were many amendments added which resulted in the legislation causing a lot of confusion in the counties. He stated it was a burden on county commissioners trying to administer the law and has caused confusion and expense to landowners. It has also caused some overregulation. Mr. Spilker said the main reason for the committee to pass the repeal is from the Attorney General's opinion which in effect states if you do not have "suitability" stamped on your plat, then the county cannot provide the services. Mr. Spilker presented copies of the Attorney General's opinion (Exhibit 1).

Gordon Morris, MACo, stated counties have too few opportunities to rejoice and asked for support on HB 783.

OPPONENTS: None.

The hearing was closed on HB 783.

DISPOSITION OF HOUSE BILL 783: Rep. Gould moved to DO PASS HB 783. The motion carried unanimously.

CONSIDERATION OF HOUSE BILLS 744 AND 745: Rep. Ramirez, House District 87 and sponsor of the bills, stated HB 744 and 745 relate to the same subject. He passed out amendments to the bills. He said the amendments do not change the thrust of the bills but change the procedures slightly (Exhibits 2 and 3).

Rep. Ramirez stated the bills would permit the consolidation of counties. There is already a procedure in the constitution for boundaries of any counties to be changed by the vote of the people in each county. He stated there are no procedures for revising the overall structure of the counties. Today, there is a great cry for property tax relief. Rep. Ramirez stated it has been very difficult trying to come to grips with that issue of finding property tax relief when municipalities, counties, school districts are supported by property taxes. The bills are a way to get to some of the structural, functional or institutional barriers to solve the problems of tax relief.

Rep. Ramirez stated according to the 1980 census, Montana has 800,000 people. There are 56 counties, making the average 14,000 persons per county. There are 20 counties that actually have less than 5,000 residents. Treasure County has 981 people; Petroleum has 655 people.

Rep. Ramirez stated HB 744 and 745 would provide for a plan to be drawn up to revise the county boundaries. HB 744 instructs the boundary commission to be formed to reduce the number of counties to 30. He stated this number could be changed and proposed amendments which would allow for at least 45 or fewer. HB 745, a constitutional amendment, would provide for the boundary commission to be created in the 1989 Legislative Session. Rep. Ramirez' proposed amendment would move that creation to the present session. The commission would consist of nine citizens: two members each selected by the majority and minority leaders of each house. Those eight members would select the ninth member. The Supreme Court would select the ninth member if the eight members could not agree on the selection. This procedure is similar to that of the Reapportionment Commission. Rep. Ramirez stated that a lot of the Boundary Commission's work would be helpful to the Reapportionment Commission.

DAILY ROLL CALL

LOCAL GOVERNMENT COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 2/18/87

NAME	PRESENT	ABSENT	EXCUSED
REP. NORM WALLIN, CHAIRMAN	✓		
REP. RAY BRANDEWIE, VICE CHAIRMAN	✓		
REP. BUDD GOULD	✓		
REP. REP. TIMOTHY WHALEN	✓		
REP. PAULA DARKO	✓		
REP. TOM BULGER	✓		
REP. JAN BROWN	✓		
REP. BOB GILBERT	✓		✓
REP. LARRY GRINDE	✓		
REP. WALTER SALES	✓		
REP. STELLA JEAN HANSEN	✓		
REP. PAUL PISTORIA			✓
REP. ROBERT HOFFMAN	✓		
REP. LES KITSELMAN	✓		
REP. JACK RAMIREZ	✓		
REP. DAVE BROWN	✓		
REP. CAROLYN SQUIRES	✓		

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amendment served to emphasize the bill's principal concern: the ability of counties and other political subdivisions to provide vehicular-related services when an access road was, for one or more reasons, inadequate. See Mar. 21, 1985 Minutes of Senate Local Government Committee. The Act, as amended, thus encourages any division of land consisting of parcels 20 acres or larger to be associated with access roads and other easements which permit safe and expeditious provision of important governmental services.

First, the unquestionable intent of the Legislature was to allow local-review governing bodies under the Act to make determinations as to access suitability which, if negative, prohibit the provision of those public services substantially dependent upon adequate roadways. Once such determination is made, the affected services may not be offered. Any other result effectively negates the governing body's decision and vitiates the underlying purpose of the review process. Consequently, upon issuance of a nonsuitability determination, none of the involved local political subdivisions may extend those services described in the determination.

Second, because the focus of a suitability determination is on the need for adequate access in order that public vehicles can be safely utilized, sheriff's or police department protection may be added by the governing body under section 76-3-609(2)(a)(ii)(E), MCA, when warranted. Careful consideration must, of course, be given to whether an access road is unsuitable for this or any other type of governmental service, and a determination of nonsuitability must be made with particularized reference to the nature of the access road and the demands of the involved service. I note, however, that HB 791 is generally concerned with provision of governmental services which, by their nature, bestow a focused benefit on the landowner. Consequently, even if police or sheriff's department services of this kind are proscribed under a nonsuitability determination, the involved department retains jurisdiction to discharge those functions which relate to general law enforcement; such functions extend beyond the mere provision of benefit to a particular landowner and directly relate to maintenance of overall societal order. A nonsuitability determination including police or sheriff's department services should

EXHIBIT 1
DATE 2-18-87
HB 783

therefore carefully specify those found inappropriate so as to preserve this distinction.

Third, the mere payment of required taxes does not, in itself, mandate the provision of all governmental services. See generally 71 Am. Jur. 2d State & Local Taxation § 6 (1973) ("even though the duty or obligation to pay taxes by the individual is founded in his participation in the benefits arising from their expenditure, this does not mean that a man's property cannot be taxed unless some benefit to him personally can be pointed out"). The Montana Supreme Court accordingly rejected the contention in State ex rel. Woodahl v. Straub, 164 Mont. 141, 149-51, 520 P.2d 776, 781, cert. denied, 419 U.S. 845 (1974), that one county's taxpayers were impermissibly discriminated against because their school system received less direct financial benefit from a statewide tax than the amount of those taxpayers' payments. Similarly here, the mere fact that an owner of a real property parcel subject to a nonsuitability determination under section 76-3-609(2)(a), MCA, is prohibited from receiving certain public services does not relieve him of the duty to tender those taxes uniformly imposed on other property owners since such obligation is not grounded on a quid pro quo relationship between payments made and benefits received. That owner, moreover, is not improperly discriminated against in connection with prohibition of the affected services, if the nonsuitability determination complies with section 76-3-609(2)(a), MCA, in view of the rational basis for such action; i.e., the absence of an access road suitable for the provision of the involved services. See, e.g., White v. State, 40 St. Rptr. 507, 511, 661 P.2d 1272, 1275-76 (1983); Linder v. Smith, 38 St. Rptr. 912, 919, 629 P.2d 1187, 1193 (1981); State v. Jack, 167 Mont. 456, 461, 539 P.2d 726, 729 (1975). Simply stated, by choosing to reside on land subject to a nonsuitability determination under section 76-3-609(2)(a), MCA, the owner has voluntarily forfeited any claim of entitlement to the proscribed public services.

Your final question involves substantial factual issues and is an inappropriate matter for my opinion. As stated above, the determination of whether access is suitable for the provision of various governmental services must be made after consideration of all

relevant circumstances. The Legislature, by leaving undefined the term "unsuitable access and easements," clearly intended that each governing body exercise its informed discretion as to what access should be deemed unsatisfactory. See 41 Op. Att'y Gen. No. 43. The model procedure adopted by the Department of Commerce for review under section 76-3-609(2)(a), MCA, thus defers to county standards for deciding whether suitable access exists. Nonetheless, while individual governing body discretion is presumably broad in establishing and applying suitability standards, it must be exercised with an objective of ensuring a safe environment for the operation of public vehicles and not solely to discourage divisions of land. In the absence of a fully-developed factual record, therefore, I decline to issue an opinion on whether Teton County's proposed definition of suitability--which requires parcels to be adjacent to or contiguous with a road "maintained" on a year-around basis by a public entity--is a proper standard under section 76-3-609(2)(a), MCA.

THEREFORE, IT IS MY OPINION:

1. A nonsuitability determination under section 76-3-609(2)(a), MCA, with respect to an access or easement prohibits any political subdivision from providing those services specified by the governing body as inappropriate.

2. The term "similar services" in section 76-3-609(2)(a)(ii)(E), MCA, may include, under appropriate circumstances, certain of those services provided by sheriff's or police departments.

3. An owner of real property affected by a nonsuitability determination under section 76-3-609(2)(a), MCA, is not relieved of his obligation to tender all taxes otherwise required of property owners--including those taxes which support governmental services prohibited by the determination.

Very truly yours,

MIKE GREELY
Attorney General

VISITORS' REGISTER

LOCAL GOVERNMENT COMMITTEE

BILL NO. HB 783 DATE February 18, 1987

SPONSOR Rep. Brandewie

NAME (please print)	REPRESENTING AND/OR RESIDENCE	SUPPORT	OPPOSE
BOB HELDING	MT. ASSOC. OF REALTORS	←	
BILL SPILKER	REAL ESTATE BUR. / [illegible]	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

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Senator Eck said Burlington Northern did not pay to fire districts but would pay bills submitted to them. She thought this might have to be taken into consideration.

Rep. Cobb said he knew there were some problems with the bill and hoped they could be worked out. He closed the hearing.

Chairman Crippen suggested everyone with amendments meet with the staff researcher, work out the amendments and bring them back to the committee for action.

CONSIDERATION OF HOUSE BILL 783: Rep. Brandewie of Bigfork, District 49, said this bill was to repeal a bill he had sponsored in a previous session that had proved confusing. He had promised to repeal it if it did not turn out well, and he was doing just that. He presented a letter from the office of the Valley County Attorney which explained the problems in the law. (See Exhibit 4)

PROPONENTS: Robert Helding, Montana Association of Realtors, agreed with Rep. Brandewie, and supported the bill.

Bill Spilker, Helena realtor, said the law has been unclear and confusing to county officials. Even the Attorney General wouldn't issue an opinion on what was "appropriate" and "suitable". Good intentions turned out badly.

Gordon Morris, MACO, thanked Senator Story and Rep. Brandewie for their part in undoing a confusing law.

OPPONENTS: There were no opponents.

QUESTIONS FROM THE COMMITTEE ON HOUSE BILL 783: None.

Rep. Brandewie closed the hearing.

DISPOSITION OF HOUSE BILL 783: Senator Story moved that House Bill 783 BE CONCURRED IN. The motion PASSED UNANIMOUSLY.

CONSIDERATION OF HOUSE BILL 612: Rep. Roth, Billings, House District 96, said the bill requires if a county water or sewer district is dissolved, the assets be given to the owners of land within the district, the same percentage of the assets as the owner's land is a percentage of the total district area.

ROLL CALL

Senate Local Government COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date Mar 10, 1987

NAME	PRESENT	ABSENT	EXCUSED
BRUCE CRIPPEN	X		
R. J. PINSONEAULT	X		
TOM BECK	X		
DOROTHY ECK	X		
H. "SWEDE" HAMMOND	X		
ETHEL HARDING	X		
LES HIRSCH	X		
PETER STORY	X		
ELEANOR VAUGHN	X		
MIKE WALKER	X		

Each day attach to minutes.

DATE 6 March 10

COMMITTEE ON Local Government

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Tom O Hara	Cascade County Rural Fire	HB 579	✓	
Lyle Nagel	MT-St. Vol firefighter Assn	HB 579	✓	
Henry E Lahr	Mont. St. Vol Fire Fighters Assn	HB 579	✓	
Ray White	Gallatin Co. Comm.	HB 579	✓	
Bruce Restad	Montana Rural Water / County Water Dist - Bigs Heights	HB 612	✓	
ROB HELDING	MT. ASSOC. OF REALTORS	HB 783	✓	
Gordon Morris	MACo	HB 783 HB 549	✓	
NICK V. CLOS	MONT. RURAL WATER SYSTEMS	HB 612	✓	

(Please leave prepared statement with Secretary)

STANDING COMMITTEE REPORT

March 10 19 87

MR. PRESIDENT

We, your committee on Local Government

having had under consideration House Bill No. 783

Third reading copy (blue color)

Brandewie (Story)

LIMITS REVIEW FOR ACCESS TO DIVISIONS OF LAND

Respectfully report as follows: That House Bill No. 783

BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

Senator Crippen
Chairman.